

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

BRIAN T. STEWART,

Plaintiff,

v.

AL LUEBBERS,

Defendant.

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No. 4:01CV01011 RWS

MEMORANDUM AND ORDER

This matter is before me on Stewart's Motion to Supplement Complaint [#46], seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The motion is successive and shall be summarily dismissed.

Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts provides that a district court shall summarily dismiss a § 2254 petition if it plainly appears that the petitioner is not entitled to relief.

Petitioner was sentenced by the state court in 1998. Petitioner sought state and federal habeas relief after the conviction. I denied federal habeas relief on November 5, 2004. The United States Court of Appeals for the Eighth Circuit denied Stewart's application for a certificate of appealability on April 12, 2005. Stewart v. Luebbbers, No. 04-3989 (8th Cir. 2005).

To the extent that petitioner seeks to relitigate claims that he brought in his original petition, those claims must be denied pursuant to 28 U.S.C. § 2244(b)(1). To the extent that petitioner seeks to bring new claims for habeas relief, petitioner must obtain leave from the United States Court of Appeals for the Eighth Circuit before he can bring those claims in this Court. 28 U.S.C. §

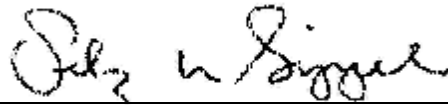
2244(b)(3)(A). Petitioner has not been granted leave to file a successive habeas petition in this Court.

As a result, the petition shall be dismissed.

Accordingly,

IT IS HEREBY ORDERED that Stewart's Motion to Supplement Complaint [#46] is
DISMISSED.

Dated this 6th Day of August, 2007.

A handwritten signature in cursive script, appearing to read "Rodney W. Sippe", written in black ink.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE